

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

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Index (UIL) No.: 451.00-00
CASE-MIS No.: TAM-116939-08

Director

Taxpayer's Name:
Taxpayer's Address:

Taxpayer's Identification No:
Year(s) Involved:
Date of Conference:

LEGEND:

Taxpayer =
Year 1 =
Year 2 =
Year 3 =

ISSUES:

- (1) Has Taxpayer properly accrued income for services performed but not yet billed (unbilled receivables) under § 451 of the Internal Revenue Code for—
- (a) fixed-price contracts;
 - (b) cost-plus contracts, including: (i) fixed-fee contracts and (ii) incentive-fee contracts; and
 - (c) time-and-materials contracts?

(2) If Taxpayer has not properly accrued income for its unbilled receivables, is Taxpayer entitled to relief under § 7805(b) with respect to a letter ruling granted in Year 1 relating to Taxpayer's treatment of unbilled receivables (Ruling)?

CONCLUSIONS:

(1) Taxpayer has not properly accrued income for its unbilled receivables under § 451.

(2) Taxpayer is not entitled to § 7805(b) relief.

FACTS:

Taxpayer is a corporation that computes its income for federal income tax purposes using an overall accrual method of accounting and a calendar taxable year. It enters into various categories of contracts with the United States Government (Government), as well as with other companies that are usually prime contractors on Government contracts and a small number of contracts outside of the Government arena.

Taxpayer's contracts generally fall within one of three broad categories based on the contracts' pricing terms: (1) fixed price, (2) cost plus, and (3) time and materials. All of the contracts at issue in this request for technical advice are solely for services, and none of them are long-term contracts within the meaning of § 460. Under fixed-price contracts, the Government generally agrees to pay the contractor a fixed amount for services related to the contract. Under cost-plus contracts, the Government generally agrees to reimburse the contractor for its costs and to pay the contractor a separate profit fee for services related to the contract. Under time-and-materials contracts, the Government generally agrees to pay the contractor a fixed hourly rate for time spent and to reimburse the contractor for the cost of its materials for services related to the contract.

In Year 1, Taxpayer received a letter ruling (Ruling) granting it permission, *inter alia*, to change its method for accounting for unbilled receivables.¹ For the taxable year immediately before the year of change, Taxpayer's method of accounting for unbilled receivables was to include unbilled receivables in income before Taxpayer had the right to bill for such amounts. The Ruling granted Taxpayer permission to change this method of accounting for unbilled receivables to the method of including unbilled receivables in income "in the year in which all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy." The § 481(a) adjustment included itemized amounts for fixed-price contracts, cost-plus-fixed-fee contracts, and time-and-materials contracts, resulting in an aggregate decrease in income. During Year 3, the year at issue in this request for technical advice, Taxpayer did not accrue income from all three categories of contracts

¹ The Ruling also granted taxpayer permission to change its method of accounting for retainages. The treatment of retainages is not at issue in this request for technical advice.

at issue until final inspection and approval of the completed contracts by the contracting officer for the Government. The field questioned Taxpayer's treatment of unbilled receivables during Taxpayer's Year 2 examination, and Taxpayer agreed to include certain unbilled receivables ("January billings") in income in the year accrued. The January billings are not at issue in this request for technical advice. The amounts at issue in this request relate to deferred billings other than January billings on contracts that permitted Taxpayer to bill the Government in Year 3 but for which Taxpayer did not accrue income in Year 3.

The contracts at issue in the instant case generally are governed by the Federal Acquisition Regulations (FAR), which provide the terms included in each contract. As noted above, Taxpayer's contracts fall within three broad categories based on the contracts' pricing terms: (1) fixed price, (2) cost plus, and (3) time and materials. The FAR provides terms for each of these types of contracts and also contains general provisions applicable to all three types of contracts.

General Provisions

The FAR allows for severable service contracts with respect to all three categories of contracts at issue in this request for technical advice. The U.S. Government Accountability Office's Principles of Federal Appropriations Law (often referred to as the "Red Book") defines severable services as "services that are continuing and ongoing in nature – such as help-desk support, maintenance, or janitorial services – for which benefit is received each time the service is rendered." Taxpayer provides a broad range of services, some of which are provided in divisible portions resulting in "severable" contracts.²

In order to receive payment, Taxpayer must submit substantiated invoices of the amounts to which Taxpayer is entitled (e.g., allowable costs). Such invoices must include any third-party invoices from subcontractors. Before final payment is made on any of the three categories of contracts at issue here, the contracting officer for the Government may audit the contractor's invoices or vouchers. The FAR provides that any payment made prior to the audit may be reduced by amounts found by the contracting officer not to constitute allowable costs or may be adjusted for any other overpayments or underpayments.

Fixed-price Contracts

² While the Taxpayer and field agree that some of the contracts at issue in this request for technical advice require the performance of severable services, they do not agree on which contracts require such services. This memorandum does not consider whether any specific contract requires the performance of severable services. The question of whether any particular contract is severable is to be determined upon examination.

The FAR provides that, under fixed-price contracts, services are provided for a fixed price, which price may be a firm price or an adjustable price that includes ceiling and target amounts. Firm-fixed-price contracts provide for a price that is not subject to any adjustment on the basis of the contractor's actual costs. One type of adjustable price fixed-price contract is a fixed-price-level-of-effort contract, which requires (1) the contractor to provide a specified level of effort, over a stated period of time, on work that can be stated only in general terms and (2) the Government to pay the contractor a fixed dollar amount for the actual effort expended. Under the FAR, the Government will pay the contractor the prices stipulated under the fixed-price contract upon submission of proper invoices or vouchers and acceptance by the contracting officer of the performed services. Taxpayer may submit invoices to the Government with respect to payments under a fixed-price contract every two weeks as work progresses on the contract. Some fixed-price contracts are divided into interim tasks or deliverables (milestones). In some of Taxpayer's fixed-price contracts, the deliverable is a defined set of services and interim payments are made periodically under the contract. Under these contracts, Taxpayer must furnish the required services and have the services accepted by the Government before Taxpayer is permitted to bill the Government under the contract. Under other fixed-price contracts, Taxpayer may bill the Government for its services in equal monthly installments. Under these contracts, Taxpayer must furnish the specified services prior to final acceptance and payment by the Government.

Cost-plus Contracts

For cost-plus contracts, the FAR provides for payment of allowable incurred costs to the extent prescribed in the contract. These contracts establish an estimate of total allowable costs for the purpose of obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the approval of the contracting officer. The estimate of total allowable costs also includes a billing rate for indirect (overhead) costs allowable under the contract. There are two types of cost-plus contracts at issue here: cost-plus-fixed-fee and cost-plus-incentive-fee. The FAR provides that, under cost-plus-fixed-fee contracts, services are provided for a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost but may be adjusted as a result of changes in the work to be performed under the contract. The FAR provides that, under cost-plus-incentive-fee contracts, services are provided under a cost-reimbursement agreement for an initially negotiated fee, which is later adjusted by a formula based on the relationship of total allowable costs to total target costs. This type of contract specifies a target cost, a target fee, minimum and maximum fees, and a fee adjustment formula. After contract performance, the fee payable to the contractor is determined in accordance with the formula. Work under cost-plus-incentive-fee contracts may be increased or decreased by modification to the contract. Also, an equitable adjustment in the target cost may be authorized under the contract. If work under the contract is modified or an equitable adjustment is warranted, any adjustments in target cost, target fee, minimum fee, and maximum fee will be stated in a supplemental agreement to the contract. When the total allowable costs fall outside

the target range of costs, the contractor generally is paid the total allowable costs plus the incentive fee, which is an amount between the set minimum and maximum fees (depending on whether the allowable costs fell above or below, respectively, the target). Under the FAR, Taxpayer may submit invoices to the Government with respect to allowable costs under a cost-plus contract every two weeks as work progresses on the contract.

Time-and-materials Contracts

For time-and-materials contracts, the FAR provides for payment based on (1) direct labor hours (time) at specified fixed hourly rates, including wages, overhead, general and administrative expenses, and profit, and (2) actual costs for materials (materials) to the extent they are reasonable, allocable, and allowable under the FAR. The FAR provides that the time portion of a time-and-materials contract is payable on a monthly (or more frequent) basis upon submission of a voucher substantiated by the contractor and approved by the contracting officer. The FAR also provides that the Government will pay the amount stated on the voucher less a 5% retainage (up to \$50,000). The FAR provides that the materials portion of a time-and-materials contract is payable in the same manner as the "cost" portion of a cost-plus contract. Under the FAR, Taxpayer may submit invoices to the Government with respect to allowable costs of the materials portion of a time-and-materials contract every two weeks as work progresses on the contract. Also under the FAR, a time-and-materials contract is subject to a ceiling price, and a contractor must notify the Government if it expects to exceed 85% of the total contract price (i.e., ceiling). However, the FAR does not call for a retainage of the remaining 15%.

LAW AND ANALYSIS:

This request for technical advice considers whether Taxpayer is properly accruing income for its unbilled receivables under § 451, and if not, whether Taxpayer is entitled to relief under § 7805(b) with respect to the Ruling. The treatment of Taxpayer's unbilled receivables is examined below. This is followed by an analysis of whether Taxpayer is entitled to relief under § 7805(b). For the reasons described below, Taxpayer is not properly accruing income for its unbilled receivables under § 451, and is not entitled to relief under § 7805(b).

Issue 1:

Has taxpayer properly accrued income for its unbilled receivables under § 451?

During Year 3, Taxpayer did not accrue income from the three categories of contracts at issue until final inspection and approval of the completed contracts by the contracting officer for the Government. The initial issue in this case centers on the application of § 451 to Taxpayer's method of accounting for unbilled receivables. Taxpayer asserts that its method of accounting for income for unbilled receivables complies with the

requirements of § 451. In contrast, the field believes that the method does not comply with § 451.

Section 1.451-1(a) of the Income Tax Regulations provides that income is includible in gross income under an accrual method of accounting when all the events have occurred that “fix the right to receive” the income and the amount of the income can be “determined with reasonable accuracy” (the “all-events test”). See also § 1.446-1(c)(1)(ii)(A). Taxpayer asserts that, for particular types of contracts, one or the other prong of this test is not satisfied until certain events occur. These assertions are examined below.

I. Fixed Liability

Under the first prong of the all-events test, all the events that fix a right to receive income occur when (1) payment is made (“paid”); (2) the required performance occurs (“earned”), or (3) payment is due (“due”), whichever happens first. Schlude v. Commissioner, 372 U.S. 128, 133 (1963); Rev. Rul. 2004-52, 2004-1 C.B. 973; Rev. Rul. 2003-10, 2003-1 C.B. 288; Rev. Rul. 84-31, 1984-1 C.B. 127. The terms of an agreement are relevant in determining when the all-events test is met. Decision, Inc. v. Commissioner, 47 T.C. 58 (1966), acq. 1967-2 C.B. 2.

In the instant case, payments under all three categories of contracts are made after the contractor submits a proper invoice, partial performance (and in some cases complete performance) occurs, and the Government accepts the invoice (in some cases after an audit of the claimed costs to ensure they are allowable). Taxpayer reasons that acceptance by the Government of the contract is the event that fixes Taxpayer’s right to income for its unbilled receivables. That is, Taxpayer asserts that its right to income for the unbilled receivables is not fixed until the Government pays those amounts. While acceptance must occur prior to payment being made, payment is only one of three events that fixes a taxpayer’s right to income under the first prong of the all-events test. If income for the unbilled receivables is “earned” or “due” prior to being “paid,” then the event that first occurs fixes the taxpayer’s right to receive income. Schlude, 372 U.S. 128; Rev. Rul. 2004-52; Rev. Rul. 2003-10; Rev. Rul. 84-31. Accordingly, we examine whether Taxpayer is required to accrue income for its unbilled receivables earlier than when it receives payment from the Government because Taxpayer either (1) has performed or (2) is due payment.

A. Performance

With respect to whether Taxpayer “earned” income for the unbilled receivables, income from the provision of services generally accrues when performance is complete, not as the taxpayer engages in the activity. See, e.g., Decision, Inc., 47 T.C. at 63. However, if services are “severable,” a portion of the income is proportionally allocated to each service provided under the contract. See Rev. Rul. 79-195, 1979-1 C.B. 177

(correspondence school's rights under contracts for course of lessons became fixed lesson by lesson). This is consistent with the terms and conditions of the contracts between Taxpayer and the Government which provide that contracts may be severable. For example, the Red Book provides examples of severable services such as providing help-desk support, maintenance, and janitorial services. As noted above, the terms of an agreement are relevant in determining when the all-events test is met. Decision, Inc., supra.

In this case, Taxpayer and the field agree that some of the contracts at issue require the performance of severable services. Performance on those contracts occurs as each severable portion of the contracts is performed, Rev. Rul. 79-195, and Taxpayer's right to receive income from those services is fixed under § 451 no later than such performance. Schlude, 372 U.S. 128; Rev. Rul. 2004-52; Rev. Rul. 2003-10; Rev. Rul. 84-31. However, Taxpayer asserts that, with respect to severable fixed-price contracts with interim tasks or deliverables, income related to each milestone does not accrue until each milestone is inspected and accepted by the Government. Inspection and acceptance by the Government is not a condition precedent for performance of services; payment, billing, and performance are three separate events. The Government's acceptance of each milestone does not delay Taxpayer's completion of each severable milestone. Upon completion of each milestone, Taxpayer has performed a severable portion of the contract and has "earned" the income allocable to that portion. Therefore, if a contract is severable, the amounts allocable to each severable portion of the contract must be accrued no later than when performance of the severable portion is complete. To the extent Taxpayer is not doing so, Taxpayer is not properly accruing income under § 451 from those severable contracts.

B. Payment Due

For non-severable contracts (and severable contracts where amounts are "due" before the severable portions are complete and "earned"), the FAR provides that a contractor may submit invoices with respect to fixed-price, cost-plus, and the materials portion of time-and-materials contracts as work progresses and as frequently as every two weeks. With respect to the time portion of time-and-materials contracts, the FAR permits Taxpayer to submit an invoice as work progresses and as frequently as every month. Even if Taxpayer chooses not to submit invoices as frequently as allowed, the amounts with respect to which Taxpayer may request payment are "due" for purposes of the first prong of the all-events test as remaining minor or ministerial duties (e.g., submitting the invoice) do not delay accrual. See, e.g., Kuehner v. Commissioner, 214 F.2d 437, 440 (1st Cir. 1954) (taxpayer recognized income when amounts went into escrow fund because payment from fund by trustee to taxpayer was "ministerial"); Georgia School-Book Depository v. Commissioner, 1 T.C. 463 (1943) (collecting from state and transmitting payment to publisher are "the least of [taxpayer's] duties"; right to income still accrues); Rev. Rul. 74-372, 1974-2 C.B. 147 (broker accrues commission income

on trade date; recording transaction, physically exchanging securities, and collecting payment are “ministerial”).

Taxpayer asserts that despite being allowed to submit an invoice at least monthly, the Government’s acceptance of the invoice constitutes a condition precedent to the amount being “due.” This position does not fully consider the distinction between the three types of events that can fix the right to income under the all-events test of § 451. While the Government’s acceptance of the invoice may constitute a condition precedent to payment, it is not a condition precedent to Taxpayer’s right to bill. In the case of non-severable fixed-price milestone contracts, however, acceptance by the Government is not only a condition precedent to payment, but it also is a condition precedent to Taxpayer’s right to bill. In such contracts, Taxpayer’s right to bill under the FAR does not occur until the Government accepts the completed milestone. With respect to all of Taxpayer’s other non-severable contracts with the Government, the contracts as provided by the FAR contemplate that the Taxpayer will bill the Government on a regular basis before final acceptance. With respect to Taxpayer’s right to submit an invoice at least monthly for non-milestone, non-severable contracts, the Government’s required acceptance of the invoice prior to payment constitutes a “condition subsequent” to Taxpayer’s right to bill that does not prevent accrual of income. See Dally v. Commissioner, 227 F.2d 724 (9th Cir. 1955) (acceptance of deliverable and submission of properly certified invoices, though required by contract, did not constitute substantial contingencies). See also Charles Schwab Corp. v. Commissioner, 107 T.C. 282, 293 (1996) (the occurrence of a condition subsequent will terminate an existing right to income but does not preclude accrual of income); see also Hollingsworth v. United States, 215 Ct. Cl. 328, 347 (1977) (“The existence of an absolute liability is necessary; absolute certainty that it will be discharged by payment is not.”), quoting Helvering v. Russian Finance & Construction Corp., 77 F.2d 324, 327 (2d Cir. 1935).

Similarly, the possibility that Taxpayer’s invoices or vouchers with respect to the contracts may be audited prior to final payment being made does not prevent Taxpayer’s right to receive the unbilled receivables from being fixed. See, e.g., Continental Tie & Lumber Co. v. U.S., 286 U.S. 290, 297 (1932) (income from future award was fixed, and accrued in earlier year, when taxpayer could make reasonable estimate of amount of award from its books and records despite actual amount of award being determined by government commission’s audit of records); Marquardt Corp. v. Commissioner, 38 T.C. 443, 450, 458 (1962) (contracts providing for complete adjustment after audit of all amounts paid gave contractor a “fixed right” to reasonably ascertainable amounts).

The total amounts due under fixed-price contracts are set by the contracts; allowable costs are defined by the FAR; and hourly rates for the time portion of time-and-materials contracts are set by the contracts. Later adjustments to amounts due under the contracts could result from a number of causes (including administrative error, subsequent modifications of the contracts and renegotiation of contract terms), none of

which constitute a condition precedent preventing the fixing of Taxpayer's right to receive income with respect to the contracts. See § 1.1451-1(a) (where amount of income is properly accrued on basis of reasonable estimate and exact amount is subsequently determined, any difference is taken into account in the year in which such determination is made); see, e.g., Marquardt Corp. v. Commissioner, 38 T.C. at 457-458; Sun Chemical Corp. v. United States, 50 A.F.T.R.2d (RIA) 5140; 82-1 U.S.T.C. (CCH) par. 9399 (Ct. Cl. 1982) (where amount due under contract was subject to equitable adjustment, amount was accrued in earlier year, and downward adjustment to amount was made in later year, income was properly accrued in earlier year and refund of tax was due in later year), affd. 698 F.2d 1203 (Fed. Cir. 1983); Rev. Rul. 81-176, 1981-2 C.B. 112 (unbilled amounts with respect to services rendered during the taxable year must be included in income in year services are performed, not in year payments are made).

C. Conclusion

Therefore, for Taxpayer's severable contracts, the amounts allocable to each severable portion of a contract are fixed no later than when performance of the severable portion is complete. For Taxpayer's contracts that are not severable, amounts under the contracts are fixed no later than when due. In the case of fixed-price contracts with milestones that must be accepted by the Government prior to billing, the amounts with respect to those milestones are not fixed until acceptance by the Government (i.e., when Taxpayer's right to bill occurs). In the case of all other non-severable contracts, Taxpayer's right to bill occurs no less than once a month as work progresses on the contracts (i.e., when Taxpayer is entitled to submit an invoice). To the extent Taxpayer is not accruing income in this manner, Taxpayer is not properly accruing income under § 451 for unbilled receivables on those contracts.

II. Determinable with Reasonable Accuracy

Taxpayer asserts that its right to unbilled receivables on cost-plus-incentive-fee contracts is not accrued under § 451 because it can not determine with reasonable accuracy the amount to which it is entitled. In particular, Taxpayer reasons that because the amounts due under a cost-plus-incentive-fee contract may be renegotiated before final payment is made, the amount due is not determinable until rate negotiations conclude. This reasoning is not persuasive for the reasons described below.

Under the second prong of the all-events test, the amount of income must be determinable with reasonable accuracy. Section 1.451-1(a); see also § 1.446-1(c)(1)(ii)(A); Continental Tie & Lumber Co. v. U.S., 286 U.S. 290, 297 (1932) (taxpayer could determine with reasonable accuracy amount of income from future award where taxpayer's books and records contained all information available for making calculation of award). If there is agreement on the general basis under which the amount due is to be calculated, accrual generally is required. Id.; see also Food Mach. & Chem. Corp. v.

U.S., 286 F.2d 177 (Ct. Cl. 1960); Cappel House Furnishing Co. v. U.S., 244 F.2d 525 (6th Cir. 1957). If the facts from which the calculation are to be made are established as of the end of the taxable year, the amount is accruable even though the calculation actually may not be made until afterwards. See, e.g., Cappel House Furnishing, supra at 530 (income was fixed by casualty and accrued despite fact that amount was based on estimate, the calculation of which occurred the following year, because calculation was based on taxpayer's books); Rev. Rul. 81-176 (additional amounts due to taxpayer must be accrued because they are fixed as of close of taxable year and may be determined with reasonable accuracy despite possibility of future audit that may change amounts due).

Under the FAR, fixed-price contracts set the total amount due under the completed contracts; cost-plus-fixed-fee and time-and-materials contracts set the ceiling prices (which may be exceeded with approval) for the total amounts due under the contracts; and cost-plus-incentive-fee contracts set formulas used to calculate the total amount due under the completed contracts. The fact that these amounts subsequently may be renegotiated does not make the amount due undeterminable. See, e.g., Marquardt Corp. v. Commissioner, 38 T.C. at 457-458 (amounts due under contracts providing for negotiation as to reasonable compensation and complete adjustment of payment after audit of all amounts due were "reasonably ascertainable"). Again, a condition subsequent does not prevent accrual of income. See Charles Schwab Corp., 107 T.C. at 293. Accordingly, renegotiation of amounts due under cost-plus-incentive-fee contracts before final payment does not preclude Taxpayer from accruing in income the fixed amounts from the contracts at issue to the extent of the amounts determinable under the contracts. To the extent Taxpayer is not doing so, Taxpayer is not properly accruing income under § 451 for unbilled receivables on those contracts.

Issue 2:

Is Taxpayer entitled to § 7805(b) relief?

The second issue to be considered is whether Taxpayer is entitled to relief under § 7805(b). For the reasons described below we conclude that such relief should not be granted in this case.

Section 7805(b)(8) provides that the Secretary may prescribe the extent to which any ruling is to be applied without retroactive effect. A letter granting consent to a change in accounting method is a letter ruling. A letter ruling found to be in error or not in accord with the current views of the Service may be revoked or modified. See § 601.204(c) of the Procedural and Administrative Regulations; see also § 11.04 of Rev. Proc. 2008-1, 2008-1 I.R.B. 1, 50. When a letter ruling is revoked, the revocation applies to all years open under the statute of limitations unless the Service exercises its discretionary authority under § 7805(b) to limit the retroactive effect of the revocation. See id. However, § 601.201(l)(5) of the Procedural and Administrative Regulations provides that, under certain conditions, the revocation or modification of a ruling will not be

applied retroactively with respect to the taxpayer to whom the ruling originally was issued or to a taxpayer whose tax liability directly was involved in such ruling. See also § 11.06 of Rev. Proc. 2008-1.

Taxpayer asks for relief under § 7805(b) and reasons that such relief is appropriate because: (1) the Ruling is being revoked or modified; (2) Taxpayer has applied the all-events test to unbilled receivables in conformance with the Ruling; (3) since Year 1 the Taxpayer and the Service have interpreted the Ruling as applying to the unbilled receivables at issue in this case, and (4) the Ruling is vague as to whether it applies to the unbilled receivables at issue here and that ambiguity should be construed against the Service.

Contrary to Taxpayer's assertion, this request for technical advice does not involve the revocation or modification of a letter ruling by the Service. The relevant part of the Ruling states that unbilled receivables must be included in income "in the year in which all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy." The Service does not seek to change the method of accounting granted by the Ruling for income for Taxpayer's unbilled receivables. Instead, this request for technical advice involves a request for guidance on whether Taxpayer has complied with the Ruling. As noted above, Taxpayer did not properly apply the all-events test to its unbilled receivables. Accordingly, § 601.201(l)(5) of the Procedural and Administrative Regulations does not apply in this case. Further, even if the field had accepted Taxpayer's treatment of unbilled receivables since Year 1, that acceptance would not be binding on the Service, see, e.g., Thomas v. Commissioner, 92 T.C. 206, 221-223 (1989); Frank's Casing Crew v. Commissioner, T.C. Memo. 1996-413, citing Meneguzzo v. Commissioner, 43 T.C. 824, 836 (1965); Massaglia v. Commissioner, 33 T.C. 379, 386-387 (1959), affd. 286 F.2d 258 (10th Cir. 1961), and Taxpayer could not rely on any such past examinations as a basis for relief under § 7805(b). Moreover, the Service previously raised the treatment of unbilled receivables with Taxpayer during Taxpayer's Year 2 examination. Finally, there is no ambiguity on the face of the Ruling. The Ruling plainly states that unbilled receivables must be included in income in the year in which the all-events test is satisfied. For the foregoing reasons, Taxpayer is not entitled to relief under § 7805(b).

CAVEATS:

A copy of this technical advice memorandum is to be given to the taxpayer(s). Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.